

REMARKS

This Amendment is being filed in response to the Office Action mailed July 30, 2009, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-3 and 5-20 are pending in this application, where claim 4 has been currently canceled without prejudice, and claims 15-20 has been currently added. Claims 1 and 14 are independent. Applicants reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice. Further, the specification has been amended to correct a certain informality.

In the Office Action, claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of copending

PATENT

Serial No. 10/598,263

Amendment in Reply to Office Action of July 30, 2009

Application No. 10/598,261. The Examiner indicated that a terminal disclaimer may be used to overcome this rejection. This rejection is respectfully traversed, particularly in view of the present amendments to the claims. However, it is respectfully submitted that Applicants will consider filing a terminal disclaimer, if necessary in view of any allowable claims, upon indication that the present application is otherwise allowable or includes allowable claims.

In the Office Action, claims 1-3 and 8-13 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,861,805 (Jackson) in view of U.S. Patent No. 6,819,050 (Zhu). Further, claims 4-6 are rejected under 35 U.S.C. §103(a) over Jackson in view of Zhu and U.S. Patent No. 6,731,068 (Dakin). Claim 7 is rejected under 35 U.S.C. §103(a) over Jackson in view of Zhu and U.S. Patent Application Publication No. 2005/0093455 (Tamura). Claim 14 is rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,536,918 (Boroczki) in view of Jackson and Zhu. Applicants respectfully traverse and submit that claims 1-3 and 5-20, as amended, are patentable over Jackson, Zhu, Dakin, Tamura and Boroczki for at

least the following reasons.

In rejecting claim 4, on page 7, lines 1-3 of the Office Action, it is correctly noted that Jackson and Zhu do not disclose or suggest the molar percentage ratio recited in claim 4. Dakin is cited in an attempt to remedy the deficiencies in Jackson and Zhu. At the outset, it is noted that page 7 of the Office Action refers to paragraph numbers of Dakin such as paragraphs [0029], 0024], and 0008]. However, Dakin has no paragraph numbers and rather it has column and line numbers. Accordingly, clarification is respectfully requested.

Dakin is directed to a metal halide lamp comprising a ceramic discharge chamber containing an ionizable fill. The ionizable fill comprises Hg, and halides (H) of Na, Ti, an alkaline earth metal, and a rare earth element. As recited in the table on column 4, line 40, the molar fraction of the rare earth halide is >0-15; preferably 4-8%.

It is respectfully submitted that Jackson, Zhu, Dakin, and combinations thereof, do not disclose or suggest the present invention as recited in independent claim 1, and similarly recited

in independent claim 14 which, amongst other patentable elements, recites (illustrative emphasis provided) :

wherein said ionizable salt comprises NaI, TlI, CaI₂ and X-iodide, wherein X comprises rare earth metals including Nd, and wherein a molar percentage ratio X-iodide/(NaI+TlI+CaI₂+X-iodide) is between 0.5% and 3%.

A lamp comprising X-iodide, where X comprises rare earth metals including Nd, and where the molar percentage ratio X-iodide/(NaI+TlI+CaI₂+X-iodide) is between 0.5% and 3% is nowhere disclosed or suggested in Jackson, Zhu and Dakin, alone or in combination. Rather, Dakin discloses that the molar fraction of the rare earth halide is 4-8%. Tamura and Boroczki are cited to allegedly show other features and do not remedy the deficiencies in Jackson, Zhu and Dakin.

Accordingly, it is respectfully submitted that independent claims 1 and 14 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 1-3, 5-13 and 15-20 should also be allowed at least based on their dependence from amended independent claims 1 and 14 as well as their individually patentable elements. Accordingly,

separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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